**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO.6938 OF 2006**

Dombivali Gymkhana ..Petitioner

V/s.

Santosh Varkute ..Respondent

Mr.Ambar Joshi, advocate for petitioner

Mr.Uday Warunjikar, advocate for respondent

**Coram : R.M.S.Khandeparkar, J.**

**Date : 27th November, 2006**

**P.C.**

1. The Labour Court on detail analysis of the materials on record had arrived at prima facie finding about the respondent having performed duty of Gymnasium Coach which included various kinds of training in exercises, steam bath and scientific massages to the members, etc. Considering that the said finding is a finding of fact based on the analysis of the evidence and materials on record, and that the same does not disclose to be perverse or contrary to the materials on record, there is no

case made out for interference of this Court in its writ jurisdiction under Article 227 of the Constitution of India. The main contention of the advocate for the petitioner is that the Court below has not considered the plea of absence of employee-employer relationship raised on behalf of the petitioner. Needless to say that the petitioner is entitled to raise such a plea even on merits. The matter is still pending before the Labour Court. It is open for the petitioner to deal with the same in accordance with the provisions of law if such plea is raised. With these observations the petition is rejected.

(**R.M.S.Khandeparkar, J.**)